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SENATE BILL 7

46TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2003

INTRODUCED BY

William H. Payne

AN ACT

RELATING TO JUDICIAL RETIREMENT; AMENDING THE JUDICIAL
RETIREMENT ACT AND THE MAGISTRATE RETIREMENT ACT TO PROVIDE
THAT METROPOLITAN COURT JUDGES BE COVERED PURSUANT TO THE
JUDICIAL RETIREMENT ACT.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 10-12B-2 NMSA 1978 (being Laws 1992,
Chapter 111, Section 2) is amended to read:

"10-12B-2. DEFINITIONS.--As used in the Judicial
Retirement Act:

A. "association" means the public employees
retirement association provided for in the Public Employees
Retirement Act;

B. "board" means the retirement board provided for
in the Public Employees Retirement Act;

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1 C. "current judge or justice" means a judge or
2 justice who occupied such an office on July 1, 1980 but who
3 elected to be covered under the provisions of the retirement
4 plan in effect at that time;

5 D. "dependent child" means a natural or adopted
6 child who is physically or mentally incapable of financial
7 self-support, regardless of age;

8 E. "educational retirement system" means the
9 retirement system provided for in the Educational Retirement
10 Act;

11 F. "effective date of retirement" means the first
12 day of the month following the month in which the member met
13 all requirements for retirement;

14 G. "former judge or justice" means a judge or
15 justice who occupied such an office prior to July 1, 1980 but
16 who had ceased to hold such an office prior to that date and
17 who elected to be excluded from the provisions of the Judicial
18 Retirement Act;

19 H. "former member" means a person no longer in
20 office who was previously [~~a judge or justice~~] covered pursuant
21 to the provisions of Sections 10-12-1 through 10-12-18 NMSA
22 1978, but who has not retired pursuant to the provisions of the
23 Judicial Retirement Act and who has received a refund of member
24 contributions pursuant to the provisions of Sections 10-12-1
25 through 10-12-18 NMSA 1978;

underscored material = new
[bracketed material] = delete

1 I. "fund" means the judicial retirement fund;
2 J. "judge" means a judge of the metropolitan court,
3 district court or court of appeals of New Mexico;

4 K. "justice" means a justice of the supreme court
5 of New Mexico;

6 L. "member" means any judge or justice who is in
7 office and covered pursuant to the provisions of the Judicial
8 Retirement Act, or any person no longer in office who was
9 previously a judge or justice covered pursuant to the
10 provisions of the Judicial Retirement Act, who has not retired
11 and who has not received a refund of member contributions from
12 the fund;

13 M. "member contributions" means the amounts
14 deducted from the salary of a member and credited to the
15 member's individual account, together with interest, if any,
16 credited thereto;

17 N. "minor child" means a natural or adopted child
18 who has not reached his eighteenth birthday [or] and who has
19 not been emancipated by marriage or otherwise;

20 O. "new judge or justice" means:

21 (1) a judge or justice who first occupied such
22 an office after July 1, 1980; or

23 (2) a judge or justice who occupied such an
24 office on or before July 1, 1980 and who has elected to be
25 covered under the provisions of the Judicial Retirement Act;

underscored material = new
[bracketed material] = delete

1 P. "pension" means a series of monthly payments to
2 a retired member or survivor beneficiary pursuant to the
3 provisions of the Judicial Retirement Act;

4 Q. "refund beneficiary" means a person designated
5 by the member, in writing in the form prescribed by the
6 association, as the person who would be refunded the member's
7 accumulated member contributions payable if the member dies and
8 no survivor pension is payable, or ~~[to]~~ who would receive the
9 difference between pension paid and accumulated member
10 contributions if the retired member dies before receiving in
11 pension payments the amount of the accumulated member
12 contributions;

13 R. "retire" means to:

14 (1) terminate employment with all employers
15 covered by any state system or the educational retirement
16 system; and

17 (2) receive a pension from one state system or
18 the educational retirement system;

19 S. "retired member" means a person who has met all
20 requirements for retirement and who is receiving a pension from
21 the fund;

22 T. "salary" means the base salary or wages paid a
23 member, including longevity pay, for personal services
24 rendered; provided that salary does not include overtime pay;
25 allowances for housing, clothing, equipment or travel; payments

underscored material = new
[bracketed material] = delete

1 for unused sick leave, unless the unused sick leave payment is
2 made through continuation of the member on the regular payroll
3 for the period represented by that payment; and any other form
4 of remuneration not specifically designated by law as included
5 in salary pursuant to the provisions of the Judicial Retirement
6 Act;

7 U. "state system" means the retirement programs
8 provided pursuant to the provisions of the Public Employees
9 Retirement Act, the Magistrate Retirement Act and the Judicial
10 Retirement Act;

11 V. "surviving spouse" means the spouse to whom the
12 member was married at the time of the member's death;

13 W. "survivor beneficiary" means a person who
14 receives a pension or who has been designated to be paid a
15 pension as a result of the death of a member or retired member;
16 and

17 X. "years of service" means a period of time
18 beginning on the date a person commences to hold office as a
19 judge or justice because of appointment or election and ending
20 on the date a person ceases to hold office as a judge or
21 justice because of expiration of the judge's or justice's term,
22 voluntary resignation, death or disability and shall include
23 any fractions of years of service. "

24 Section 2. Section 10-12B-3 NMSA 1978 (being Laws 1992,
25 Chapter 111, Section 3, as amended) is amended to read:

. 143051. 1

underscored material = new
[bracketed material] = delete

1 "10-12B-3. JUDICIAL RETIREMENT FUND ESTABLISHED--
2 ADMINISTRATION OF FUND--ACCOUNTING FUNDS.--

3 A. There is established in the state treasury the
4 "judicial retirement fund". The fund is comprised of money
5 received from docket fees of metropolitan courts, district
6 courts, the court of appeals and the supreme court, employer
7 and employee contributions and any investment earnings on fees
8 and contributions. The board is the trustee of the fund and
9 shall administer and invest the fund. Investment of the fund
10 shall be conducted pursuant to the provisions of the Public
11 Employees Retirement Act. The provisions of the Judicial
12 Retirement Act shall be administered by the board. The board
13 is authorized to promulgate rules [~~and regulations~~]. Expenses
14 related to the investment of the fund and administration of the
15 Judicial Retirement Act shall be paid from the fund.

16 B. For purposes of this section, the accounting
17 funds shall be known as the "member contribution fund",
18 "employer's accumulation fund", "retirement reserve fund" and
19 "income fund". The maintenance of separate accounting funds
20 shall not require the actual segregation of the assets of the
21 fund.

22 C. The accounting funds provided for in this
23 section are trust funds and shall be used only for the purposes
24 provided for in the Judicial Retirement Act.

25 D. The member contribution fund is the accounting

underscored material = new
[bracketed material] = delete

1 fund in which shall be accumulated contributions of members and
2 from which shall be made refunds and transfers of accumulated
3 member contributions as provided in the Judicial Retirement
4 Act. The member's court shall cause member contributions to be
5 deducted from the salary of the member and shall remit the
6 deducted member contributions to the association in accordance
7 with procedures and schedules established by the association.
8 The association may assess an interest charge and a penalty
9 charge on any late remittance. Each member shall be deemed to
10 consent and agree to the deductions made and provided for in
11 this section. Contributions by members shall be credited to
12 the members' individual accounts in the member contribution
13 fund. A member's accumulated member contributions shall be
14 transferred to the retirement reserve fund when a pension
15 becomes payable.

16 E. The employer's accumulation fund is the
17 accounting fund in which shall be accumulated the contributions
18 paid by the state through the member's court. The state,
19 through the member's court, shall remit its contributions to
20 the association in accordance with procedures and schedules
21 established by the association. The board may assess an
22 interest charge and a penalty charge on any late remittance.

23 F. The retirement reserve fund is the accounting
24 fund from which shall be paid all pensions to retired members
25 and survivor beneficiaries and all residual refunds to refund

. 143051. 1

underscored material = new
[bracketed material] = delete

1 beneficiaries of retired members and survivor beneficiaries.

2 G. Each year, following receipt of the report of
3 the annual actuarial valuation, the excess, if any, of the
4 reported actuarial present value of pensions being paid and
5 likely to be paid to retired members and survivor beneficiaries
6 and residual refunds likely to be paid to refund beneficiaries
7 of retired members and survivor beneficiaries over the balance
8 in the retirement reserve fund shall be transferred to the
9 retirement reserve fund from the employer's accumulation fund.

10 H. The income fund is the accounting fund to which
11 shall be credited all interest, dividends, rents and other
12 income from investments of the fund, all gifts and bequests,
13 all unclaimed member contributions and all other money the
14 disposition of which is not specifically provided for in the
15 Judicial Retirement Act. Expenses related to the
16 administration of the Judicial Retirement Act shall be paid for
17 from the income fund.

18 I. The association shall at least annually
19 distribute all or a portion of the balance in the income fund
20 to the member contribution fund, the retirement reserve fund
21 and the employer's accumulation fund. Distribution rates shall
22 be determined by the board and may vary for the respective
23 accounting funds. "

24 Section 3. Section 10-12B-11 NMSA 1978 (being Laws 1992,
25 Chapter 111, Section 11) is amended to read:

. 143051. 1

1 "10-12B-11. EMPLOYER CONTRIBUTIONS. --

2 A. The member's court shall contribute nine percent
3 of salary for each member in office to the fund.

4 B. Thirty-eight dollars (\$38.00) from each civil
5 case docket fee paid in the district court, twenty-five dollars
6 (\$25.00) from each civil docket fee paid in metropolitan court
7 and ten dollars (\$10.00) from each jury fee paid in
8 metropolitan court shall be paid by the court clerk to the
9 employer's accumulation fund. "

10 Section 4. Section 10-12C-2 NMSA 1978 (being Laws 1992,
11 Chapter 118, Section 2) is amended to read:

12 "10-12C-2. DEFINITIONS. -- As used in the Magistrate
13 Retirement Act:

14 A. "association" means the public employees
15 retirement association provided for in the Public Employees
16 Retirement Act;

17 B. "board" means the retirement board provided for
18 in the Public Employees Retirement Act;

19 C. "dependent child" means a natural or adopted
20 child who is physically or mentally incapable of financial
21 self-support, regardless of age;

22 D. "educational retirement system" means the
23 retirement system provided for in the Educational Retirement
24 Act;

25 E. "effective date of retirement" means the first

underscored material = new
[bracketed material] = delete

1 day of the month following the month in which the member met
2 all requirements for retirement;

3 F. "former member" means a person no longer in
4 office who was previously [~~a magistrate~~] covered pursuant to
5 the provisions of Sections 10- 12A-1 through 10- 12A- 13 NMSA
6 1978, but who has not retired pursuant to the provisions of the
7 Magistrate Retirement Act and who has received a refund of
8 member contributions pursuant to the provisions of Sections
9 10- 12A- 1 through 10- 12A- 13 NMSA 1978;

10 G. "fund" means the magistrate retirement fund;

11 H. "magistrate" means a magistrate [~~or a~~
12 ~~metropolitan court~~] judge;

13 I. "member" means any magistrate who is in office
14 and covered pursuant to the provisions of the Magistrate
15 Retirement Act, or any person no longer in office who was
16 previously a magistrate covered pursuant to the provisions of
17 the Magistrate Retirement Act, who has not retired and who has
18 not received a refund of member contributions from the fund;

19 J. "member contributions" means the amounts
20 deducted from the salary of a member and credited to the
21 member's individual account, together with interest, if any,
22 credited thereto;

23 K. "minor child" means a natural or adopted child
24 who has not reached his eighteenth birthday [~~or~~] and who has
25 not been emancipated by marriage or otherwise;

. 143051. 1

underscored material = new
[bracketed material] = delete

1 L. "pension" means a series of monthly payments to
2 a retired member or survivor beneficiary pursuant to the
3 provisions of the Magistrate Retirement Act;

4 M. "refund beneficiary" means a person designated
5 by the member, in writing in the form prescribed by the
6 association, as the person who would be refunded the member's
7 accumulated member contributions payable if the member dies and
8 no survivor pension is payable, or as the person who ~~[receives]~~
9 would receive the difference between pension paid and
10 accumulated member contributions if the retired member dies
11 before receiving in pension payments the amount of the
12 accumulated member contributions;

13 N. "retire" means to:
14 (1) terminate employment with all employers
15 covered by any state system or the educational retirement
16 system; and

17 (2) receive a pension from one state system or
18 the educational retirement system;

19 O. "retired member" means a person who has met all
20 requirements for retirement and who is receiving a pension from
21 the fund;

22 P. "salary" means the base salary or wages paid a
23 member, including longevity pay, for personal services
24 rendered; provided that salary does not include overtime pay;
25 allowances for housing, clothing, equipment or travel; payments

underscored material = new
[bracketed material] = delete

1 for unused sick leave, unless the unused sick leave payment is
2 made through continuation of the member on the regular payroll
3 for the period represented by that payment; and any other form
4 of remuneration not specifically designated by law as included
5 in salary pursuant to the provisions of the Magistrate
6 Retirement Act;

7 Q. "state system" means the retirement programs
8 provided pursuant to the provisions of the Public Employees
9 Retirement Act, the Magistrate Retirement Act and the Judicial
10 Retirement Act;

11 R. "surviving spouse" means the spouse to whom the
12 member was married at the time of the member's death;

13 S. "survivor beneficiary" means a person who
14 receives a pension or who has been designated to be paid a
15 pension as a result of the death of a member or retired member;
16 and

17 T. "years of service" means a period of time
18 beginning on the date a person commences to hold office as a
19 magistrate because of appointment or election and ending on the
20 date a person ceases to hold office as a magistrate because of
21 expiration of the magistrate's term, voluntary resignation,
22 death or disability and shall include any fractions of years of
23 service. "

24 Section 5. Section 10-12C-3 NMSA 1978 (being Laws 1992,
25 Chapter 118, Section 3, as amended) is amended to read:

. 143051. 1

underscored material = new
[bracketed material] = delete

1 "10-12C-3. MAGISTRATE RETIREMENT FUND ESTABLISHED--
2 ADMINISTRATION OF FUND--ACCOUNTING FUNDS.--

3 A. There is established in the state treasury the
4 "magistrate retirement fund". The fund is comprised of money
5 received from docket fees of magistrate [~~and metropolitan~~]
6 courts, employer and member contributions and any investment
7 earnings on fees and contributions. The board is the trustee
8 of the fund and shall administer and invest the fund.
9 Investment of the fund shall be conducted pursuant to the
10 provisions of the Public Employees Retirement Act. The
11 provisions of the Magistrate Retirement Act shall be
12 administered by the board. The board is authorized to
13 promulgate rules [~~and regulations~~]. Expenses related to the
14 investment of the fund and administration of the Magistrate
15 Retirement Act shall be paid from the fund.

16 B. For purposes of this section, the accounting
17 funds shall be known as the "member contribution fund",
18 "employer's accumulation fund", "retirement reserve fund" and
19 "income fund". The maintenance of separate accounting funds
20 shall not require the actual segregation of the assets of the
21 fund.

22 C. The accounting funds provided for in this
23 section are trust funds and shall be used only for the purposes
24 provided for in the Magistrate Retirement Act.

25 D. The member contribution fund is the accounting

underscored material = new
[bracketed material] = delete

1 fund in which shall be accumulated contributions of members and
2 from which shall be made refunds and transfers of accumulated
3 member contributions as provided in the Magistrate Retirement
4 Act. The member's court shall cause member contributions to be
5 deducted from the salary of the member and shall remit the
6 deducted member contributions to the association in accordance
7 with procedures and schedules established by the association.
8 The association may assess an interest charge and a penalty
9 charge on any late remittance. Each member shall be deemed to
10 consent and agree to the deductions made and provided for in
11 this section. Contributions by members shall be credited to
12 the members' individual accounts in the member contribution
13 fund. A member's accumulated member contributions shall be
14 transferred to the retirement reserve fund when a pension
15 becomes payable.

16 E. The employer's accumulation fund is the
17 accounting fund in which shall be accumulated the contributions
18 paid by the state through the administrative office of the
19 courts. The state, through the administrative office of the
20 courts, shall remit its contributions to the association in
21 accordance with procedures and schedules established by the
22 association. The board may assess an interest charge and a
23 penalty charge on any late remittance.

24 F. The retirement reserve fund is the accounting
25 fund from which shall be paid all pensions to retired members

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underscored material = new
[bracketed material] = delete

1 and survivor beneficiaries and all residual refunds to refund
2 beneficiaries of retired members and survivor beneficiaries.

3 G. Each year, following receipt of the report of
4 the annual actuarial valuation, the excess, if any, of the
5 reported actuarial present value of pensions being paid and
6 likely to be paid to retired members and survivor beneficiaries
7 and residual refunds likely to be paid to refund beneficiaries
8 of retired members and survivor beneficiaries over the balance
9 in the retirement reserve fund shall be transferred to the
10 retirement reserve fund from the employer's accumulation fund.

11 H. The income fund is the accounting fund to which
12 shall be credited all interest, dividends, rents and other
13 income from investments of the fund, all gifts and bequests,
14 all unclaimed member contributions and all other money the
15 disposition of which is not specifically provided for in the
16 Magistrate Retirement Act. Expenses related to the
17 administration of the Magistrate Retirement Act shall be paid
18 for from the income fund.

19 I. The association shall at least annually
20 distribute all or a portion of the balance in the income fund
21 to the member contribution fund, the retirement reserve fund
22 and the employer's accumulation fund. Distribution rates shall
23 be determined by the board and may vary for the respective
24 accounting funds. "

25 Section 6. Section 10-12C-11 NMSA 1978 (being Laws 1992,

. 143051. 1

underscoring material = new
[bracketed material] = delete

1 Chapter 118, Section 11) is amended to read:

2 "10-12C-11. EMPLOYER CONTRIBUTIONS. --

3 A. The state, through the administrative office of
4 the courts, shall contribute nine percent of salary for each
5 member in office to the fund.

6 B. Twenty-five dollars (\$25.00) from each civil
7 case docket fee paid in magistrate [~~or metropolitan~~] court and
8 ten dollars (\$10.00) from each civil jury fee paid in
9 magistrate [~~or metropolitan~~] court shall be paid by the court
10 clerk to the employer's accumulation fund. "

11 Section 7. EFFECTIVE DATE. --The effective date of the
12 provisions of this act is July 1, 2003.